

REMARKS

Claims 1-9, 11-15, and 17-22 are pending. Claims 5, 10, and 16 have been cancelled. Applicant reserves the right to file a divisional application to any non-elected or cancelled claims. Claims 1, 4, 6, 11, 12, 14, and 17-18 have been amended. Claim 22 has been added. Support for the amendments may be found in the specification in paragraphs [0014] and [0066], and in Table 1.

The following issues are outstanding in the instant application:

- Claims 1-9, 11-15, and 17-21 have been rejected under 35 U.S.C. 102(b) as allegedly anticipated by Ruml *et al.*

35 U.S.C. 102(b)

The Examiner has rejected claims 1-9, 11-15, and 17-21 under 35 U.S.C. 102(b) as allegedly anticipated by Ruml *et al.* Applicants respectfully traverse.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants assert that there is no identity between the calcium citrate doses taught by Ruml *et al.* and the calcium citrate doses claimed by the instant application. Ruml *et al.* teaches doses of 800mg/day of calcium citrate in early to early/mid postmenopausal women. Applicants teach effective doses of calcium citrate of greater than 800 mg/day in postmenopausal woman. Applicants teach higher calcium citrate doses than the calcium citrate doses taught by Ruml *et al.* Furthermore, there is no suggestion in Ruml *et al.* that doses as taught by Applicant are contemplated or desired, nor is there any suggestion of using such doses to increase high-density lipoprotein levels in plasma of postmenopausal women.

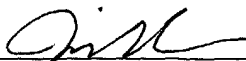
Thus, as Ruml *et al.* does not teach the doses claimed in the instant application, Applicant respectfully request withdrawal of the 35 U.S.C. 102(b) rejection of claims 1-9, 11-15, and 17-21.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02194US0 from which the undersigned is authorized to draw.

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Respectfully submitted,

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